

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
Western Division  
Civil Action No. 5:14-CV-00165

WILLIAM R. GRAY,	)	
	)	
Plaintiff,	)	<b>COMPLAINT FOR</b>
	)	<b>PATENT INFRINGEMENT</b>
v.	)	
	)	
ROYAL METAL PRODUCTS INC.	)	<b>JURY TRIAL DEMANDED</b>
and ATCOFLEX LLC,	)	
	)	
Defendants.	)	

Plaintiff William R. Gray hereby alleges as follows:

**NATURE OF ACTION**

1. This is an action under the patent laws of the United States, including 35 U.S.C. § 271, for infringement by defendants Royal Metal Products Inc. and Atcoflex, LLC of one or more claims of U.S. Patent No. 8,403,137 B2 (the “137 Patent”), a patent owned by plaintiff William R. Gray.

**THE PARTIES**

1. Plaintiff William R. Gray is a resident of Raleigh, North Carolina.
2. Defendant Royal Metal Products Inc. (“Royal”) is, on information and belief, a Georgia corporation with a principal place of business at 100 Royal Way, Temple, Georgia 30179.
3. Defendant Atcoflex LLC is, on information and belief, a Michigan limited liability corporation with a registered office at 14261 172<sup>nd</sup> Avenue, Grand Haven, Michigan 49417.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1338(a) (civil action arising under Act of Congress relating to patents).

5. This Court may exercise personal jurisdiction over Royal pursuant to N.C. Gen. Stat. § 1-75.4 and consistent with the United States Constitution. Upon information and belief, Royal is engaged in substantial activity within the State of North Carolina and in this judicial district. Upon information and belief, such activity includes, but is not limited to, appointing dealers throughout the State of North Carolina and in this judicial district which are engaged in marketing and selling products manufactured by Royal; selling products manufactured by Royal in the State of North Carolina and in this judicial district; selling and inducing others to sell Royal Flex Duct products in infringing package assemblies in the State of North Carolina and in this judicial district; and inducing others to use infringing package assemblies in the State of North Carolina and in this judicial district.

6. This Court may exercise personal jurisdiction over Atcoflex pursuant to N.C. Gen. Stat. § 1-75.4 and consistent with the United States Constitution. Upon information and belief, Atcoflex has acquired the flexible duct manufacturing business formerly conducted by Royal. As such, upon information and belief, Atcoflex is engaged in substantial activity within the State of North Carolina and in this judicial district, including but not limited to appointing dealers throughout the State of North Carolina and in this judicial district which are engaged in marketing and selling products manufactured by Atcoflex or by Royal; selling products manufactured by Atcoflex or Royal in the State of North Carolina and in this judicial district; selling and inducing others to sell Atcoflex or Royal Flex Duct products in infringing package

assemblies in the State of North Carolina and in this judicial district; and inducing others to use infringing package assemblies in the State of North Carolina and in this judicial district.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), (c) and (d).

### **CLAIM FOR PATENT INFRINGEMENT**

8. William R. Gray is the owner of the '137 Patent for an invention in "Flexible Packaging for Compressed Duct." A true copy of the '137 Patent is attached as Exhibit A.

9. The '137 Patent describes and claims, among other things, a restraint and a container for retaining a compressed article. The invention of the '137 Patent provides, *inter alia*, a package assembly comprising a flexible container, longitudinally compressed flexible duct, at least one permanent strap extending longitudinally around the flexible container and precluding the longitudinal expansion of the duct.

10. Atcoflex and Royal have infringed one or more claims of the '137 Patent by making, using, importing, offering to sell, or selling in the United States package assemblies comprised of a flexible container package assembly with at least one permanent strap extending longitudinally around the around the container containing compressed duct. A copy of a picture of the infringing package assembly are attached as Exhibit B.

11. On information and belief, Atcoflex and Royal have induced infringement of one or more claims of the '137 Patent by others by selling, offering for sale, and/or importing Royal Flex Duct products in package assemblies that cause the purchasers of such products to infringe one or more claims of the '137 Patent.

12. On information and belief, Atcoflex and Royal became aware of the '137 Patent on or after its issuance date of March 26, 2013. On information and belief, Atcoflex and Royal

have willfully infringed the '137 Patent by continuing thereafter to make, use, sell, offer for sale, or import flexible duct in infringing flexible containers with longitudinal retaining straps.

13. Atcoflex and Royal have at all relevant times been on notice that the package assembly described in the '137 Patent is the invention of William R. Gray.

14. The aforesaid sales and other acts of Atcoflex and Royal are without right, license, or permission from Mr. Gray.

15. On information and belief, Atcoflex intends to continue the sales and acts alleged herein.

16. Mr. Gray has been damaged by Atcoflex's and Royal's infringement of the '137 Patent and will be irreparably damaged if that infringement is not enjoined.

#### **PRAYER FOR RELIEF**

WHEREFORE, Mr. Gray demands judgment as follows:

A. For a judgment that Atcoflex and Royal have infringed one or more claims of the '137 Patent;

B. For a judgment that Atcoflex and Royal have induced infringement of one or more claims of the '137 Patent;

C. For a judgment that Atcoflex and Royal have willfully infringed one or more claims of the '137 Patent;

D. For a permanent injunction restraining and enjoining Atcoflex and Royal, their officers, agents, attorneys, and employees, and those acting in privity or concert with them, from engaging in the commercial manufacture, use, offer to sell, or sale within the United States, or importation into the United States, of package assemblies claimed in the '137 Patent;

E. For a judgment awarding Mr. Gray all damages, costs, fees, and expenses sustained by reason of Atcoflex's and Royal's unlawful infringement of the '137 Patent, including damages no less than a reasonable royalty for Atcoflex's and Royal's use of the '137 Patent, together with pre-judgment interest;

F. For a judgment declaring that this case is exceptional and awarding Mr. Gray his attorneys' fees and costs reasonably incurred in the prosecution of this matter, pursuant to, *inter alia*, 35 U.S.C. §§ 284 and 285, Rule 54(d) of the Federal Rules of Civil Procedure and 15 U.S.C. § 1117(a); and

G. For a judgment awarding Mr. Gray increased damages, pursuant to 35 U.S.C. § 284, in an amount not less than three times the amount of actual damages awarded to the plaintiffs, by reason of the Atcoflex's and Royal's willful and deliberate infringement of the '137 Patent; and

H. For such other and further relief as the Court may deem just and proper.

#### **DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Mr. Gray demands a trial by jury in this matter as to all issues so triable as a matter of right.

This the 19<sup>th</sup> day of March, 2014.

/s/ Robert J. Morris

Robert J. Morris

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